

REMARKS

Status of the Claims

In the present Amendment, Claims 20 and 21 have been added. Support is found, for example, at Table 2 and paragraphs [0223] and [0246] of the USPTO's publication of the present application (i.e., U.S. Pub. No. 2002/0054897). No new matter has been added, and entry of the Amendment is requested.

Upon entry of the Amendment, Claims 1-3, 5-7, 10, 11, 13 and 16-21 will be pending, of which Claims 16-18 are withdrawn from consideration.

Response to the Examiner's Alleged Section 103 Rejection

Referring to Paragraph No. 1 at page 2 of the Office Action, Claims 1-3, 5-7, 10, 11, 13 and 19 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over WO 91/10362 (Tocher) in view of WO 93/04017 (Burger) and USPN 4,772,490 (Kogler).

Applicant traverses and respectfully requests that the Examiner reconsider and withdraw the rejection based on the following remarks.

Tocher teaches what it describes as a simplified process for preparing controlled release granules of pesticides for direct application by overcoating a granular carrier containing a pesticide and a polyhydroxylated compound or water with a liquid polyisocyanate and a polymerization catalyst. Because the polyhydroxylated compound is contained in the granular carrier, polymerization of the polyhydroxylated compound and the polyisocyanate is conducted at the surface of the granular carrier (i.e., interfacial polymerization is conducted). It is essential to Tocher's teachings that the polyhydroxylated compound is contained in the granular carrier and that interfacial polymerization is conducted with the polyisocyanate.

The Examiner has rejected the claims over the combination of Tocher with Burger and Kogler. However, if the combination proposed by the Examiner was undertaken, an essential characteristic of Tocher's disclosed invention would be rendered meaningless (i.e., the interfacial polymerization would disappear). Accordingly, the Examiner is not considering the invention as a whole but, instead, is considering the individual components of the prior art references. Thus, Applicant maintains that the present claimed invention is not the combination of known elements according to known methods which does no more than yield predictable results.

With specific regard to Claims 5, 7, 10, 11 and 13, which recite in relevant part that the water absorption ratio of the polyurethane is not more than 5%, the Examiner takes the position that "the polyurethane coating of Tocher is reasonably expected to have the same water absorption ratio as claimed herein. Further, the optimization of the properties of the coating accordingly by using different isocyanate or polyol is considered within the skill of artisan." Further, the Examiner points to pages 7-8 of the Board's decision issued December 3, 2007.

In this regard, Tocher fails to disclose or suggest controlling water absorption. Moreover, Applicant maintains that even if the raw materials of the present claimed invention are somewhat similar to those described by Tocher, the properties of the polyurethane resin produced therefrom (including water absorption) would not be based wholly on these materials. Instead, the properties of the thermosetting resin produced would necessarily vary according to the reaction conditions.

Further, the Board simply pointed out that Kogler and Burger disclose a particular controlled release, such as "one such particle did not release 50% of the active ingredient until

approximately 9 weeks.” However, the Board did not indicate that Kogler or Burger taught that the release profile could be controlled by any one of:

(A) water absorption ratio, as is recited by Claims 5, 10, 11 and 13;

(B) T_g (° C), as is recited by Claim 20; or

(C) OH equivalent, as is recited by Claim 21.

In view of the above, reconsideration and withdrawal of the Section 103 obviousness rejection of the present claims are respectfully requested.

Conclusion

Reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited.

If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the local, Washington D.C., telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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